

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FELIPE ALEXANDER TORREALBA-MARIN,

Petitioner,

v.

No. 20-cv-0659 WJ/SMV

**CHAD WOLF, WILLIAM P. BARR,
MATTHEW T. ALBENCE, COREY PRICE,
THALAMUS JONES, CHAD MILLER,
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, and UNITED STATES
IMMIGRATION AND CUSTOMS ENFORCEMENT,**

Respondents.

ORDER FOR SERVICE AND RESPONSE

THIS MATTER is before the Court on the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [Doc. 1], filed on July 6, 2020, and on the Motion for Order to Show Cause Pursuant to 28 U.S.C. § 2243 [Doc. 15], filed on July 27, 2020. The Court will order Petitioner to effect service on Respondents in accordance with the governing authorities—including but not limited to Fed. R. Civ. P. 4(i)—within 30 days.¹ Further, the Court will grant the Motion for Order to Show Cause [Doc. 15] and require Respondents to respond to the Petition within 20 days

¹ The Court's obligation to serve most habeas petitions stems from the Rules Governing 2254 and 2255 Cases. For example, Rule 4 of the Rules Governing 2254 Cases provides that "[i]f the petition is not dismissed, . . . the clerk must serve a copy of the petition and any order on the respondent." If applicable, the *in forma pauperis* statute also provides a basis for court-supplied service. 28 U.S.C. § 1915(d) (2018) ("The officers of the court shall issue and serve all process, and perform all duties in [*in forma pauperis*] cases."). Here, however, Petitioner is not proceeding under §§ 2254, 2255, or 1915. His Petition challenges his immigration detention under 28 U.S.C. § 2241. [Doc. 1] at 3. Accordingly, it appears to the Court that the Federal Rules of Civil Procedure, including the service provision of Rule 4, apply to this case. See Fed. R. Civ. P. 81(a)(4).

of the date that they are served, showing cause why a writ of habeas corpus should not issue. *See* 28 U.S.C. § 2243 (2018).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Petitioner, **no later than September 17, 2020**, serve process on Respondents **AND FURTHER** file proof of service in conformity with the requirements of Fed. R. Civ. P. 4, or show cause why not. If Petitioner does not timely comply, the Court may consider dismissal of this proceeding.

IT IS ADDITIONALLY ORDERED that Petitioner, **no later than September 17, 2020**, **DELIVER** a copy of this Order to the United States attorney for the District of New Mexico, an assistant United States attorney, or clerical employee whom the United States attorney designates in a writing filed with the court clerk, **OR SEND** a copy of this Order by registered or certified mail to the civil-process clerk at the United States attorney's office **AND FURTHER** file proof of such on the record.

IT IS FURTHER ORDERED that Respondents, within 20 days after service, respond to the Petition or otherwise show cause why a Writ of Habeas Corpus should not issue.

IT IS FURTHER ORDERED that if Petitioner desires to file a reply (traverse), he may do so within 14 days of the filing of the response.

IT IS FURTHER ORDERED that the Court will set a hearing, if needed, at a later time. *See* § 2243.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge